CCL 391 NAC 8-000

TITLE 391 CHILDREN'S SERVICES LICENSING

CHAPTER 8-000 CHILD-PLACING AGENCIES

8-001 SCOPE AND AUTHORITY: These regulations govern licensure of child-placing agencies. The regulations are authorized by, Neb. Rev. Stat. §§ 43-296, 43-701 to 43-707; 71-1901 to 71-1907, and 71-1924 to 71-1951.

Child-placing agencies are also required to comply with the Federal Indian Child Welfare Act (ICWA) found at 25 U.S.C. 1901 et seq., and the Nebraska Indian Child Welfare Act found at Neb. Rev. Stat. §§ 43-1501 to 43-156; the Interstate Compact on the Placement of Children (ICPC) found at Neb. Rev. Stat. §43-1103; as well as all Federal laws which govern international adoption.

<u>8-001.01 Covered Providers: These regulations apply to any person that provides foster care services, independent/transitional living, and/or adoption services in a Child-Placing Agency.</u>

8-001.02 Excluded Providers: These regulations do not apply to:

- 1. Services where educational or vocational training is the primary service and foster care is a supportive service only;
- 2. Courts, parents, guardians, or relatives' rights to place a child;
- 3. Federal, state, regional, county, governmental units; or
- 4. Tribal governments.

8-002 DEFINITIONS

Act means Children's Residential Facilities and Placing Licensure Act.

Administrator means the person who is responsible for planning, organizing, and directing the day to day operation of the child-placing agency.

Adoption means a judicial act creating between two persons certain relations, purely civil, of paternity and filiation.

Adoption continuum means, when it is in the best interests of the child, an adoptive placement where the adoptive parent(s) and the birth parent(s) choose to communicate with each other and share information. The degree of openness is determined by the parties involved.

Adoption disruption means termination of an adoptive placement prior to the finalization of the adoption.

Adoption dissolution means the legal termination of an adoption that has been finalized, including legal termination of the adoptive parent(s)' rights.

Adoptive placement means a type of placement that has not been finalized by a Decree of Adoption issued by a court of competent jurisdiction.

Agency adoption means an adoptive placement in which the child-placing agency is responsible to counsel the birth parent(s), place the child, supervise the placement, and provide reports to the court as required by law.

Agency representative means any person employed by or under contract with the Nebraska Department of Health and Human Services, the State Fire Marshal, or their designated agents.

Birth parent counseling means the required decision making counseling that must be provided to a birth parent(s) or legal parents prior to a decision regarding whether or not to relinquish parental rights to a child.

Budget means a plan for allocation of anticipated revenues and expenditures.

Care means the provision of room and board and the exercise of concern and responsibility for the safety and welfare of children on a twenty-four-hour-per-day basis in settings that serve as the out-of-home placement for children.

Child Abuse and Neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be placed in a situation that endangers his or her life or physical or mental health.

Child placement means to coordinate, arrange, and approve the process of a child entering an unrelated home or facility to be cared for on a temporary, long-term, or adoptive basis.

Complete application means an application that contains all the information specified on the form provided by the Department and includes all required attachments, documentation, and the licensure fee.

Concurrent adoption means more than one adoption being processed simultaneously either through the same agency or multiple agencies.

Conflict of interest means a situation that has the potential to undermine the impartiality of an individual because of the possibility of a clash between the individual's self-interest or other professional-interest.

Convention means the Convention on protection of children and cooperation in respect of foreign country adoption done at The Hague on May 29, 1993.

Convention adoption means the adoption of a child resident in a Convention country by a United States citizen or an adoption of a child resident in the United States by an individual(s) residing in a Convention country when in connection with the adoption the child has moved or will move between the United States and the Convention country.

Convention country means a country that is a party to the Hague Convention and with which the Convention is in force for the United States.

Country of origin means the country in which a child is a resident and from which a child is emigrating in connection with his or her adoption.

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<u>Current reference means a reference dated within one year of the time of application for employment with agency.</u>

Designee means an individual given responsibility to act on another's behalf.

<u>Director means the Director of the Division of Public Health of the Nebraska Department of Health and Human Services.</u>

Executive Director means the executive director, director, superintendent, president, chief executive officer, and similarly classified positions who is responsible for the daily operation of the child-placing agency including compliance with all regulations when the individual is not the licensee.

Fire Code means federal, state, or local regulations governing fire safety.

<u>Foreign country adoption means the placement of children emigrating from their country of origin</u> for the purpose of adoption.

<u>Foster or approved home: Please refer to 395 Nebraska Administrative Code for definitions of foster and approved homes.</u>

Health Care means the sum of all action taken, preventive and therapeutic, to provide for the physical and mental well-being of a population. Includes medical and dental services, mental health services, nursing, personal hygiene, dietary services, and environmental conditions.

Household means all persons who have significant in-home contact with the child, including those who have a familial or intimate relationship with any person in the home. A person is considered as a member of the household if s/he spends 50% of more of his/her time in the home OR if the home is his/her only permanent residence (i.e., deployed members of the military, temporarily incarcerated individuals).

Independent Living means the establishment of a residence for a youth to reside outside of his/her family. The youth would reside in an apartment, house, dorm or other type of living arrangement and is responsible for taking care of his/her own needs (i.e., paying rent, buying and preparing food, managing a budget).

Interstate adoption means a placement of a child into or from Nebraska with a person(s) for the purpose of adoption. Placement must be in conformity with Nebraska Revised Statutes, including the Child Care Licensing Act, the Nebraska Children's Code and the Interstate Compact on Placement of Children. Services to the child and adoptive family must be provided under the laws of each state.

Legal risk adoption means an adoptive placement where parental rights have not been relinquished and/or terminated and the child is not yet legally free for adoption at the time of placement. This includes infants placed directly after birth. The child is placed in an approved adoptive home. The placement is with the intention of adoption when or if the child becomes available for adoption. The placement remains a legal risk placement until parental rights have been relinquished or terminated.

Licensee means the owner of the child-placing agency and the individual, partnership, limited liability company, corporation, or governmental unit to whom the license is issued and who is responsible for the compliance with all regulations.

NAC means Nebraska Administrative Code.

Petition means the filing of documents signed and sworn to by the person or persons desiring to adopt a minor child as required by Neb. Rev. Stat. §§ 43-103 to 43-107.

Placement means the arrangement for the care of a child in a licensed or approved foster family or in a residential child-caring agency but does not include any institution caring for the mentally ill, developmentally disabled or any institution primarily educational in character, and any hospital or other medical facility.

<u>Placement worker means a staff person employed by the child-placing agency who has the responsibility to effectuate the movement of a child into the home of a family who wishes to provide permanency for the child through adoption.</u>

Quality improvement program means a review of the services and outcomes of such services provided to applicants and a procedure for tracking such outcomes to determine if changes need to be made to the system to improve delivery of such services.

Relative means a person connected to the child by blood, marriage, adoption, or tribal law or custom.

Relative home means a home where a child or children receive foster care and at least one of the primary caretakers is related to the child or children, or to a sibling of such child or children pursuant to Neb. Rev. Stat. § 43-1311.02, in his or her care by blood, marriage, or adoption or, in the case of an Indian child, at least one of the primary caretakers is an extended family member as defined in Neb. Rev. Stat. § 43-1503.

Sexual abuse means sexual harassment, sexual coercion, or sexual assault.

Social and behavioral sciences means sociology, psychology, social work, criminal justice, human services, human development, and counseling.

USCIS means the United States Custom and Immigration Services.

Volunteer means a person who, under supervision, assists in the operation of the child-placing agency and is never left alone with children.

Youth means a minor under 19 years of age.

8-003 LICENSING REQUIREMENTS AND PROCEDURES

8-003.01 Initial License:

8-003.01A Applicant Responsibilities: An applicant must:

- 1. Intend to provide child-placing services;
- 2. Submit a written application and documentation to the Department; and
- 3. Pass an on-site inspection conducted by the Department.

8-003.01A1 Citizenship/Qualified Alien Status: If the applicant is an individual or an individual in a partnership, the applicant must attest that s/he is a citizen of the United States of America or that s/he is a qualified alien and is lawfully present in the United States under the Federal Immigration Nationality Act, 8 U.S.C 1101 et seq. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.

8-003.01A1a Verification: For any applicant who has attested that s/he is a qualified alien under the paragraph above, eligibility must be verified through the Systematic Alien Verification for Entitlements Program. Until verification of eligibility is made, the attestation may be presumed to be proof of lawful presence unless the verification is required under another provision of state or federal law.

<u>8-003.01A2 Planned Service Provision Date: The date the child-placing agency plans</u> to begin providing services.

8-003.01A3 References: Three positive written references from four separate Nebraska social service or child welfare agencies providing services to abused, neglected, or dependent children, status offenders, or delinquents, signed by the Executive Director of the agency on agency letterhead.

8-003.01A4 Policies and Procedures: A copy of current and updated Personnel and Program Policies and Procedures, Staff Job Descriptions and all forms that will be used.

8-003.01A5 Consent and Release of Information Form: Consent for Nebraska Child Abuse Central Registry Check and Nebraska Adult Abuse Central Register Check and Authorization for Release of Information Form for the applicant if an individual or partnership, or an executive director or administrator if a limited liability company or corporation or governmental unit.

8-003.01A6 Criminal History: Documentation of criminal history record checks current within six months for the applicant if an individual or an individual or partnership, or an executive director or administrator if a limited liability company or corporation or governmental unit (see 8-006.03A).

8-003.01A7 Report of Law Enforcement Contact: A report of law enforcement contact for the applicant if an individual or partnership, or an executive director or administrator if a limited liability company or corporation or governmental unit (see 8-006.03C).

<u>8-003.01A8 Proof of Liability Insurance or a self-insurance program, in the following amounts:</u>

- 1. General Liability
- 2. General Aggregate \$2,000,000
- 3. Bodily Injury/Property Damage \$1,000,000 per occurrence

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<u>4.</u>	Workers Compensation	As required by statute
<u>5.</u>	Automobile Liability	
	Bodily Injury/Property Damage	\$1,000,000 per occurrence
6.	Umbrella/Excess Liability	
	Over Primary Insurance	\$1,000,000 per occurrence

8-003.01A9 Additional Information: To show evidence of compliance the child-placing agency may be requested by the Department to provide additional information.

8-003.01A10 Fees: Non-refundable fee.

8-003.01B Denial of License: The Department may deny a license based upon the grounds specified in 8-008.

8-003.02 Renewal Licenses:

8-003.02A Licensee Responsibilities: The licensee must submit:

8-003.02A1 Application: A complete, accurate, and signed application and disclosure or ownership on a form provided by the Department.

8-003.02A2 Liability Insurance: Evidence of adequate liability insurance or, if selfinsured, funds to pay liability claims in accordance with 8-003.01A8.

8-003.02A3 Fees: Non-refundable fee.

8-003.03 Reinstatement from Lapsed Status: A child-placing requesting reinstatement of its lapsed license must submit to the Department an application for reinstatement and pay the required licensure fee.

8-003.03A Review of Application: The Department will review the application for completeness and will determine if an onsite inspection needs to be conducted in accordance with 8-005 based on the following factors:

- 1. The length of time that has transpired from the date the license was placed on lapsed status to the date of the reinstatement application; and
- 2. Whether the agency has provided services from the site under a license that is different from the lapsed license.

8-003.04 Change of Ownership: A license is not transferable or assignable. A change of ownership terminates the license. The new owner must apply for a license.

8-003.04A Sale or Transfer: Change of ownership includes the sale or transfer of the ownership or control of a child-placing agency to a person other than the current licensee.

Change of ownership does not include a change of name or location of the child-placing agency.

8-003.04B Requirements of New Owner: If there is a change of ownership and the childplacing agency remains on the same premises, the new owner must apply for a license as required in 8-003.01, except that Criminal history record checks, Reports of Law Enforcement Contact, and Health Information Reports are required only for new employees who have not already submitted or completed these documents.

8-003.04C Mergers: If there is a change of ownership based on the merger of a parent and subsidiary company, affiliated businesses, or governmental units, and the child-placing agency remains on the same premises, the new owner must submit a complete application.

8-003.05 Provisional License: The Department may issue a non-renewable provisional license for a period of up to one year to an initial applicant that substantially complies with the Act as described in 8-005.02B.

8-004 GENERAL REQUIREMENTS:

<u>8-004.01 Effective Date and Term of License: A child-placing agency license will expire on September 30 of each calendar year.</u>

8-004.02 License Not Transferable: A license is issued only for the premises and person(s) named in the application and is not transferable or assignable.

<u>8-004.02A Termination of License: Change of ownership (sale, whether of stock, title, or assets, lease, discontinuance of operations) or premises terminates the license.</u>

8-004.02B New License Required: When there is a change of ownership and the child-placing agency remains on the same premises, a new license must be obtained as specified in 8-003.01.

8-004.02C New Policies and Procedures Required: A child-placing agency must submit and have approved by the Department additional or revised policies and procedures for any addition to or modification of the scope of services it provides.

<u>8-004.03 Alternative Compliance: To be considered for approval of a time limited alternative</u> compliance with a regulation, the proposed alternative must:

- 1. Be consistent with the overall intent and purposes of the regulation; and
- 2. Protect the health, rights, safety, and well-being of all children in care.

8004.03A Terms of Alternative Compliance: An alternative compliance may be granted:

- 1. To permit the applicant or licensee time to come into compliance; and
- 2. For a period of time, no more than six months that ends when the violations have been corrected.

<u>8-004.03B Written Request: A written request must be submitted to the Department and include:</u>

- 1. The regulation for which alternative compliance is being requested;
- 2. The reason for the alternative compliance request;
- 3. A description of how the alternative will meet the intent of the regulation; and
- 4. How the alternative will offer equivalent protection for all children.

8-004.03C Notification of Department Decision: Within 30 days of the Department's receipt of all appropriate information the Department will notify the applicant or licensee in writing of its decision to approve or deny the request.

<u>8-004.03D</u> Requirements Not Qualifying for Alternative Compliance: Alternative compliance will not be granted for the following requirements:

- 1. Criminal history/background checks;
- 2. Staff qualifications; and
- 3. Any regulation for which a discipline has been initiated or completed.

<u>8-004.04 Notification of Changes: An Amendment to the Application must be submitted to the Department:</u>

- 1. At least 60 working days before the planned effective date for a change in:
 - a. Location; or
 - b. Services the agency provides.
- 2. Within five working days of a change in Executive Director or Administrator.

8-005 INSPECTIONS AND COMPLAINT INVESTIGATIONS

<u>8-005.01 Initial Inspection: The Department will conduct an announced initial on-site inspection to determine compliance.</u>

8-005.02 Results of Initial Inspection:

8-005.02A Operating License Issued: When the Department finds that the applicant fully complies with the requirements of the Act and these regulations, the Department will issue an operating license.

8-005.02B Provisional License Issued: When the Department finds that the applicant has complied substantially but has failed to comply fully with the requirements of the Act and these regulations and the failure(s) would not pose an imminent danger of death or physical harm to a child. The applicant must:

- 1. Be making a good faith effort to comply;
- 2. Be capable of compliance within the time period stated on the provisional license;
- 3. Submit a detailed Statement of Compliance approved by the Department which addresses each violation and includes:
 - <u>a.</u> What steps have been or will be taken to correct each violation;
 - b. The estimated time necessary to correct each violation; and

- <u>c.</u> The name of the person within the agency who is responsible for each correction.
- 4. Submit the required licensure fee.

<u>8-005.03 Inspections: The Department may, at any time following the initial licensure, conduct an unannounced on-site inspection.</u>

8-005.04 Complaint Investigations: The Department will review any complaint or information regarding a possible violation or non-compliance submitted and determine whether to conduct an investigation. The Department will consider whether the:

- 1. Complaint pertains to a matter within the authority of the department to enforce;
- 2. Circumstances indicate that a complaint is made in good faith;
- 3. Complaint is timely or has been delayed too long to justify present evaluation of its merit;
- 4. Complainant may be a necessary witness if action is taken and is willing to identify him/herself and come forward to testify if action is taken; or
- 5. Information provided or within the knowledge of the complainant is sufficient to provide a reasonable basis to believe that a violation has occurred or to secure necessary evidence from other sources.

8-006 STANDARDS OF OPERATION AND CARE

8-006.01 Responsibilities of Governing Body or Licensee:

- Maintain the written purpose statement for the agency which must include:
 - a. The type of services in which the agency intends to engage;
 - b. The geographic area the agency intends to serve; and
 - c. The ages and gender of children to be served.
- <u>2.</u> <u>Maintain personnel policies and procedures which must include:</u>
 - a. Job description and qualifications for position;
 - b. Employee application and hiring process;
 - c. When and how background checks are completed;
 - d. Health Information Report;
 - e. How staff pre-service and in-service training will be provided and at what frequency;
 - <u>f.</u> <u>Frequency and content of staff performance evaluations;</u>
 - g. How staff disciplinary action is determined and imposed;
 - h. Specific procedures for mandatory reporting of child abuse/neglect by staff;
 - i. Confidentiality; and
 - j. Prohibition of discrimination and/or retaliation.
 - k. How staff safety will be ensured;
 - B. Protect the legal rights of children pursuant to 8-006.07;
- 4. Approve the budget, obtain and disperse funds;
- 5. Designate an Executive Director who is responsible for the day to day management and define the responsibilities of such Executive Director;

- 6. Conduct an annual evaluation of the Executive Director;
- 7. Maintain compliance with all applicable state statutes and regulations;
- 8. Notify the Department, in writing, within five working days when a vacancy in the Executive Director position occurs, including who will be responsible for the position until another Executive Director is appointed;
- 9. Notify the Department, in writing, within five working days when the Executive Director vacancy is filled including the name of the Executive Director and the effective date;
- 10. Cooperate with all on-site inspections and complaint investigations;
- 11. Complete and submit the license renewal application prior to the annual expiration date of the license along with the required fee; and
- 12. Notify the Department immediately of any bankruptcy filing.
- 13. Complete and submit the license renewal application prior to the annual expiration date of the license along with the required fee; and
- 14. Notify the Department immediately of any bankruptcy filing.

8-006.02 Administrator: The Governing Board or Executive Director must appoint an Administrator who is present on the premises a sufficient number of hours to permit adequate attention to the management of the agency, is responsible for planning, organizing, and directing the day to day operation to ensure compliance with regulations.

8-006.03 Employee Requirements:

8-006.03A Criminal History Record Checks: The applicant/licensee must complete a pre-employment criminal history record check for each staff member and volunteer age 19 or older, and each household member age 19 and older. Documentation must be kept and available for review by the Department.

The check must be conducted through the Nebraska State Patrol or through one or more local law enforcement agencies, as appropriate to the individual's residence(s). If an individual has lived outside the state of Nebraska as an adult, the applicant/licensee must also obtain documentation of a criminal history record check from the previous state(s) of residence.

8-006.03A1 Permanent Disqualification: An individual is permanently disqualified from holding a license, residing in, or working as a staff member or volunteer if s/he has a criminal history including conviction of any unlawful act endangering the health or safety of another individual. Such convictions include crimes: against a child or vulnerable adult, involving intentional bodily harm, or involving moral turpitude on the part of the individual. These crimes include:

- Aggravated or armed robbery;
- 2. Assault, first or second degree;
- 3. Child abandonment;
- 4. Child abuse;
- 5. Child molestation or debauching a minor;
- 6. Child neglect;

- 7. Commercial sexual exploitation of a minor;
- 8. Felony domestic violence;
- 9. Felony exploitation of a minor involving drug offenses or conviction of drug offenses that involved a minor;
- 10. Felony controlled substances offenses, other than possession;
- 11. Felony violation of custody;
- 12. Human trafficking;
- 13. Incest;
- 14. Kidnapping;
- 15. Murder, first or second degree;
- 16. Sexual abuse of a minor;
- 17. Sexual assault;
- 18. Sexual exploitation of a minor, including child pornography; and
- 19. Voluntary manslaughter.

8-006.03A2 Twenty-Year Disqualification: An individual is disqualified from holding a license, residing in, or working as a staff member or volunteer if s/he has a criminal history that includes conviction in the last 20 years of:

- Arson;
- 2. Assault, third degree, two or more convictions;
- 3. Burglary, two or more convictions;
- 4. Criminal non-support;
- 5. Driving under the influence, four or more convictions;
- 6. Felony fraud;
- 7. Felony possession of controlled substance offenses;
- 8. Felony theft;
- 9. Felony vehicular homicide;
- 10. Felony forgery;
- 11. Felony terrorist threats:
- 12. Misdemeanor domestic violence; and
- 13. Robbery.

8-006.03A2a Disqualification Timeframe: The 20-year disqualification is calculated from the date the sentence is complete. If the individual has more than one conviction, the 20-year disqualification begins the date all sentences are complete.

8-006.03A3 Five-Year Disqualification: An individual is disqualified from holding a license, residing in, or working as a staff member or a volunteer if s/he has a criminal history that includes conviction in the last five years of:

- 1. Assault, third degree;
- 2. Burglary;
- 3. Contributing to the delinquency of a minor;
- 4. Driving under the influence: two convictions;
- 5. Felony bad check writing;
- 6. Felony criminal possession of a financial transaction device;

- 7. Felony identity fraud;
- 8. Felony identity theft;
- 9. Felony unauthorized use of a transaction device;
- 10. Misdemeanor contributing to the delinquency of a child;
- 11. Misdemeanor controlled substances offenses;
- 12. Misdemeanor failure to report child abuse;
- 13. Misdemeanor fraud;
- 14. Misdemeanor forgery;
- 15. Misdemeanor terroristic threats;
- 16. Misdemeanor theft;
- 17. Misdemeanor vehicular homicide; and
- 18. Public indecency.

8-006.03A3a Disqualification Timeframe: The 5-year disqualification is calculated from the date the sentence is complete. If the individual has more than one conviction, the 5-year disqualification begins the date all sentences are complete.

8-006.03A4 Other Complaints, Indictments and Convictions: The Department may determine that an individual may hold a license or work as a staff member or a volunteer with a pending complaint, indictment, or conviction of other crimes if the Department determines the individual has the present character and fitness to work with children. In making this determination the Department may consider the following factors:

- 1. The age of the individual at the time of the conduct;
- 2. The recency of the conduct:
- 3. The seriousness of the conduct;
- 4. The factors underlying the conduct;
- 5. The cumulative effect of the conduct;
- 6. The evidence of rehabilitation;
- 7. The individual's positive social contributions since the conduct:
- 8. The individual's honesty in providing information; and
- 9. The materiality of any omissions or misrepresentations.

8-006.03A5 Parental Rights Terminated: An applicant, licensee, or staff member must not have had his/her rights as a parent terminated by a Court because of a finding of abuse or neglect of a child or inability to care for a child.

8-006.03B Registry Checks: Appropriate to age, the applicant/licensee must complete a pre-employment registry check on each staff member, volunteer and each household member who resides at a location where the child-placing agency will provide services. Any individual who is listed as a perpetrator on any of the registries must not be a staff, volunteer or household member. Documentation must be kept and available for review by the Department. The following registries must be checked:

- 1. Nebraska child abuse/neglect central registry, if the individual is age 13 or older;
- 2. Nebraska adult protective services (APS) central registry if the individual is age 18 or older; and

3. State Patrol sex offender registry, if the individual is age 18 or older.

8-006.03C Reports of Law Enforcement Contact: The applicant/licensee must report all law enforcement contact on him/herself, each staff member, and each household member age 19 and older who resides at a location where the child-placing agency will provide services, on a form provided by the Department which is updated, signed and dated annually or anytime the individual is issued a citation other than a minor traffic violation, or charged with or convicted of any felony, misdemeanor or infraction. Documentation must be kept and available for review by the Department. The report must include:

- 1. All previous and pending criminal charges, both felony and misdemeanor, regardless of prosecution;
- 2. Any record of felony and/or misdemeanor charges related to crimes against children:
- 3. Any record of felony and/or misdemeanor convictions;
- 4. Any current or past parole or probation status, including diversion or court supervision; and
- <u>5.</u> <u>Details, dates, county and state of the contact, arrest, charge, conviction, and disposition, if any.</u>

8-006.03D Notification of Law Enforcement Contact: As soon as the licensee/executive director becomes aware of the occurrence, s/he must notify the Department of any misdemeanor ticket other than a traffic violation that does not carry the potential for incarceration, pending criminal charges, and any felony or misdemeanor convictions of him/herself, staff, volunteers, or household members if the agency is located in a private residence. The licensee/executive director must request a criminal history record check on the individual within five working days. Failure to notify the Department of law enforcement contacts as described may result in disciplinary action.

8-006.03E Individual Under Investigation for Abuse or Neglect of a Child or Vulnerable Adult: Any individual who is under investigation for abuse, neglect, or sexual abuse of a child or vulnerable adult must not be left alone with children until the investigation is completed and the findings are determined.

8-006.04 Employee Qualifications: All staff must meet the following qualifications, except staff employed as an executive director, administrator, program director, placement supervisor, or placement worker on or before the effective date of these regulations do not have to meet these qualifications, but must meet the qualifications previously found in 474 NAC 6.

<u>8-006.04A Executive Director and/or Administrator: The Executive Director and/or Administrator must:</u>

- 1. Be at least 25 years of age;
- 2. Be of good moral character and not engage in or have a history of behaviors injurious to or which may endanger the health or morals of children; and
- 3. Meet one of the following education and experience requirements:
 - <u>a.</u> Have a master's degree in social work, counseling, business, public administration, education, or a related human service degree, and two
 - b. Have a master's degree in social work, business, finance, or a human service area of study and four years' experience in the management or supervision of human services personnel and programs; or
 - c. Have a bachelor's degree and two years of experience in human services if the Executive Director or Administrator is only responsible for personnel, fiscal management, and facilities, and is not responsible for the programs and services of the child-placing agency and employs a Program Director as explained in 8-006.04A1.

8-006.04A1 Program Director Required: If the Executive Director or Administrator is qualified under 8-006.04A Item 3c, then the agency must employ a Program Director. The Program Director must meet the requirements in 8-006.04A Items 1 and 2, have a master's degree in counseling, criminal justice, education or related human services degree, and have two years of experience in the supervision of human services personnel and services.

8-006.04B Placement Supervisor: A placement supervisor must:

- 1. Have a master's degree in social work, counseling, or related human services; or
- <u>2.</u> Have a bachelor's degree in social work, counseling, or related human an services with two years of experience in a human service related field;
- 3. Be of good moral character; and
- 4. Not engage in or have a history of behaviors injurious to or which may endanger the health or morals of children.

8-006.04B1 Placement Supervisor Maximum Subordinates: If an individual is employed or contracted as a placement supervisor at more than one child placement agency, the total number of individuals supervised by the placement supervisor at all agencies must not exceed nine FTEs.

8-006.04C Placement Worker: A placement workers hired prior to the enactment of these regulations do not have to meet the educational criteria below in items 1 and 2. Placement workers hired after the enactment of these regulations must be supervised by a placement supervisor and must meet all of the following requirements:

- 1. endanger the health or morals of children.
- 2. Have a Bachelor degree in the social or behavioral sciences; or
- 3. If an individual has a Bachelor's degree in a non-related field, he/she must have at least two years' experience supervised by an individual with a Master of Social Work or other Master's degree in the social or behavioral sciences;
- 4. Be of good moral character; and
- 5. Not engage in or have a history of behaviors injurious to or which may

8-006.04D Volunteer: A volunteers must:

- 1. Be at least 21 years of age;
- 2. Be of good moral character;
- 3. Not engage in or have a history of behaviors that will endanger the health or morals of children in care; and
- 4. Be directly supervised by staff when working with children.

8-006.05 Employee Record: A current record for each staff person, must be maintained at the facility where the employee is assigned or be made available upon request by the Department and include:

- 1. Name;
- 2. Address and telephone number;
- 3. Social security number;
- 4. Date of hire/termination;
- 5. Date of assuming job responsibilities;
- 6. Pre-service training;
- 7. Statement that the employee has read and understands these regulations;
- 8. Educational requirements;
- 9. Registry checks with no adverse findings including:
 - a. Nebraska Child Abuse and Neglect Central Registry;
 - b. Nebraska Adult Abuse Central Registry; and
 - c. Nebraska State Patrol Sex Offender Registry;
- 10. Criminal history record check;
- 11. Report of Law Enforcement Contact;
- 12. Job title and job description;
- 13. In-service training:
- 14. Annual performance evaluation;
- 15. Any disciplinary action taken or work improvement plans;
- 16. Grievances;
- 17. Current Driver's License if employee transports children; and
- 18. Vehicle insurance if employee transports children in own vehicle.

8-006.05A Volunteer Record: The record must include the following:

- Name;
- 2. Address and telephone number;

- Start date;
- 4. A written schedule that includes the hours and days of the week the individual serves as a volunteer; and
- 5. <u>Documentation of background checks including:</u>
 - a. Nebraska Child Abuse and Neglect Central Registry;
 - b. Nebraska Adult Abuse Central Registry; and
 - c. Nebraska State Patrol Sex Offender Registry.
- 6. Documentation of criminal history record check; and
- 7. Report of law enforcement contact.

8-006.05B Employee Record Retention: Records of all employees must be kept for at least two years after the separation of the employee.

<u>8-006.06 Employee Training: Written documentation of the completion of all training must include:</u>

- 1. Name of the course;
- 2. Date the course was completed; and
- 3. Number of hours each course took to complete.

8.006.06A Pre-Service Training: Staff must have completed 40 hours of preservice training prior to the staff person having direct responsibility for services. The training must include:

- 1. Job duties and responsibilities:
- 2. Policies and procedures specific to job duties;
- 3. Child-placing agency regulations;
- 4. Child rights;
- 5. Confidentiality of children's records and children's medical information;
- 6. Child service plans
- 7. Information on any physical and mental special care needs of the children;
- 8. Information on statutes regarding abuse and neglect, reporting procedures;
- 9. Crisis management; and
- 10. Trauma informed care.

<u>8-006.06B On-Going Training: Each staff must obtain 20 hours of training annually. Written documentation must be maintained and include the:</u>

- 1. Name of the course;
- 2. Date the course was completed; and
- 3. Number of hours each course took to complete.

8-006.06B1 Topics for Training: Topics may include those listed in pre-service training (see 8-006.06A) and also include:

- a. Child attachment and bonding;
- b. Effects of a disruption in placement upon a child;
- c. Substance abuse;
- d. Domestic violence;

- e. Community resources;
- f. Suicide prevention;
- g. Independent living preparation;
- h. Cultural awareness and competence; and
- i. Child nutrition.

8-006.06C Activities Counted as Training: Participation in the following activities may be counted on an hour-for-hour basis:

- 1. Training sponsored or co-sponsored by the Department of Health and Human Services;
- 2. Workshops;
- 3. <u>In-service training sponsored by professional organizations or educational institutions;</u>
- 4. College courses;
- 5. Non-credit college course work;
- 6. Adult education courses:
- 7. Videotaped training;
- 8. Audiotaped training;
- 9. Webinar training;
- 8. Continuing education units (CEU's); and
- 9. On-line and independent study:
 - a. Written material be counted as one training hour per 50 pages of written material.

8-006.07 The Child's Rights: The Governing Body must establish a detailed written Bill of Rights that will be equally applicable to all children. The child-placing agency must protect and promote these rights. The child and his/her parent or legal guardian must be given a copy of the Bill of Rights before the child-placing agency provides services to the child. The child has the right to:

- 1. Receive services provided by the child-placing agency;
- 2. Participate in the planning of his/her care and receive instruction and education regarding the plan;
- 3. Request information regarding his/her care;
- 4. Receive services without discrimination as to race, color, creed, age, sexual orientation, or national origin:
- 5. Exercise religious beliefs or cultural traditions;
- <u>6.</u> Be accepted for services only if the child-placing agency has the ability to provide safe and professional care;
- <u>7.</u> Personal privacy and confidentiality of all records, communications, and personal information;
- <u>8.</u> Receive policies and procedures for admission, discharge, and termination of services at the time of admission;
- <u>9. Voice complaints/grievances and suggest changes in services or staff without fear of</u> reprisal or discrimination and be informed of the resolution;
- 10. Be free from verbal, physical, psychological abuse and to be treated with dignity;

- 11. Expect all efforts will be made to ensure continuity and quality of care;
- 12. Have his/her person and property treated with respect;
- 13. Be informed, in advance, about the care to be furnished, and any changes in the care to be furnished; and
- 14. Be free from chemical and mechanical restraints except as part of a drug or medication ordered as part of the child's individual treatment plan.

<u>8-006.08 Complaint Process: Detailed written policies and procedures addressing complaints received from children, parents, guardians, staff and others must include:</u>

- 1. A procedure for submission of complaints that is made available to staff, children, parents, guardians, and others;
- 2. Time frames and procedures for review of complaints and provision of responses to address complaints;
- 3. A description of how information from complaints and responses is used to improve the quality of care and services for children; and
- 4. A method to ensure that the telephone number of the Nebraska Child Abuse and Neglect Hotline and the child's parent/guardian or other legal custodian is readily available to children, employees and others who wish to lodge complaints.

<u>8-006.09 Program Description: A detailed written program description must be available to staff, children, parents, guardians or their designees, foster parents, adoptive applicants, and members of the public and include:</u>

- 1. Ownership;
- 2. Goals and objectives;
- <u>3.</u> <u>Description of the types of children to be served, including age, gender, care needs, and any other relevant characteristics:</u>
- 4. Foster care services both licensed and approved;
- 5. Independent and transitional living services;
- Adoption services, both foreign and domestic;
- 7. The composition of staff and their qualifications; and
- 8. The job responsibilities of staff.

8-006.10 Quality Assurance and Improvement: Services must be reviewed concurrently and retrospectively in accordance with a detailed written quality assurance/improvement plan developed with input from children, parents, guardians, and other community partners. The results must be recorded quarterly and reported to the governing body annually. The written plan must include:

- 1. Objectives;
- 2. Description of how services will be provided and coordinated;
- 3. Methodology for monitoring, evaluating, and improving the quality of services:
- 4. Setting priorities for resolving problems;
- <u>5.</u> Monitoring to determine effectiveness of action;
- 6. Oversight responsibility; and
- 7. Mechanism for review of quality assurance plan.

8-006.11 Foster Care Services:

8-006.11A Conflict of Interest: The child-placing agency must have written policies and procedures to determine and define if a conflict of interest is present when deciding whether or not to perform a home study, place a child, or supervise the placement of a child with its own staff member, board member, or family member of a staff member or board member.

8-006.11B Licensed Foster Care: A child placing agency must comply with all requirements for licensure of foster homes in Title 395 NAC and must complete an annual unannounced on-site home inspection of the foster care home.

- 1. A written report of the inspection must be given to the foster parent and a copy maintained in the child-placing agency file.
- 2. Written Notice of Non-Compliance with regulations must be left with the foster parent(s) at the time of the inspection or provided to the foster parent(s) within 15 days of the inspection. Compliance with regulation must be achieved within the time frames indicated on the notice.

<u>8-006.11C Non-Licensed Foster Care: A child placing agency must comply with all requirements for kinship and relative foster homes in Title 395 NAC.</u>

8-006.11D Placement of a Child:

- Prior to placement the child-placing agency must give the foster parent(s)
 all available information regarding the child in writing;
- 2. At the Time of Placement:
 - <u>a.</u> A placement agreement must be signed by the foster parent and the agency.
 - b. A consent for the foster parent to obtain medical care and treatment for the child must be signed by the child's legal guardian.
 - c. A payment agreement must be completed and signed by the foster parent and the child-placing agency. The payment agreement must include the amount the foster parent will be paid for care of the child.

<u>8-006.11E Supervision of a Child: For all children entering care the child-placing</u> agency must ensure and have documented proof of the following:

- 1. Medical and Dental Care: The child must:
 - a. Have complete medical, dental, and vision exams annually;
 - <u>b.</u> Receive immediate medical, dental, and/or vision care when an emergency arises;
 - c. Be current on all immunizations; and
 - d. Receive necessary treatment for any medical or mental health care needs.
- 2. Education: A child age six and older who has not obtained a high school diploma or GED must be enrolled in an educational program.

3. Monthly Contact: The child-placing agency must visit the foster home at least monthly to observe the interaction of the foster children with the foster parent(s) and to generally assess the safety of the home.

<u>8-006.11F Discharge of a Child from Placement: Written policies and procedures must include:</u>

- 1. How the child will be informed of and involved in the development of the discharge plan;
- 2. Where the child will be placed upon discharge;
- 3. What pertinent information must be provided to the next care provider to meet the needs of the child including:
 - a. Written reports of the child's progress while in care;
 - <u>b.</u> <u>Educational information including: grade reports, scholastic achievement and social adjustment;</u>
 - c. Medical reports;
 - <u>d.</u> Reports of psychological and psychiatric examination and testing;
 - e. Reports of family contact and visitation; and
 - f. A current inventory of the child's personal items.
- 4. As appropriate, how counseling and assistance for the parent(s) or guardians, foster parents and foster children in preparation for the end of placement will be provided.
- <u>8-006.11F1 Release of a Child: A child may be discharged only at the direction of the legal custodian or court authority.</u>
- 8-006.11F2 Provision of Information: Upon discharge from foster care placement, the child-placing agency must provide the parents and/or legal guardian or the agency receiving the child with pertinent information necessary to assume care of the child.
- 8-006.11G Closure of a Foster Care Home: The child-placing agency must follow one of the following procedures and notify the Nebraska Department of Health and Human Services Division of Children and Family Services of the decision:
 - 1. Allow a license to expire if the foster parent(s) chooses not to submit a renewal application;
 - 2. Send a written statement to the foster parent(s) explaining that the agency will no longer pursue, maintain, or support the license of the foster home; or
 - 3. Meet with or send a letter to the foster parent(s) requesting them to sign a statement that they are withdrawing from the foster care program.

8-006.11H Child Record: All records are confidential and must be maintained at least three years after foster care has been terminated and include:

- Original intake information;
- 2. An agreement signed by the parent or legal guardian authorizing the agency to place the child in foster care;
- 3. Medical consent for necessary medical and surgical care;
- 4. Legal custody and responsibility for the child; or a copy of the approved Interstate Compact on the Placement of Children (ICPC) agreement:
- 5. Child's progress while in care;
- 6. Educational information including: grade reports, scholastic achievement and social adjustment;
- 7. Medical, dental, and vision records including: examinations, immunizations, illnesses, and follow-up treatments;
- 8. Psychological or psychiatric testing, examination, and follow-up treatment, if obtained:
- 9. Visits to the child and contacts with the child's own family and services provided or arranged;
- 10. Copy of the service delivery plan for the child:
 - Completed within 30 days of admission;
 - Updated quarterly while the child is in care.
- 11. An inventory of the child's personal items updated at least yearly or each time there is a change in the inventory and a written inventory statement signed and dated by:
 - The child, as age appropriate; and
 - An agency representative or foster parent.
- 12. Payment agreement for placements in foster care.

8-006.11 Foster Parent(s) Record: A separate record for each foster care home certified by the agency must be retained for at least three years after the expiration of the last-issued license and include:

- The application:
- The license/approval for foster care;
- 2.3.4.5.6.7.8.9. Three references;
- Nebraska Child and adult abuse registry checks;
- Nebraska State Patrol sex offender registry checks;
- Local law enforcement checks;
- Documentation that national criminal history (finger print) were completed:
- Health information report;
- Home study;
- 10. Agency rights and responsibilities;
- Reports of subsequent visits to the home; 11.
- <u>12.</u> Training records; and
- Corrective action plans and complaints.

8-006.12 Independent/Transitional Living Services:

8-006.12A Assessment of a Youth: Within 14 days of placement into an independent/transitional living program, the child-placing agency must prepare a written assessment of the youth's life skills which includes:

- Money management and consumer awareness:
- Food management;
- Personal hygiene;
- Health:
- Housekeeping;
- Transportation:
- Education status:
- <u>1.2.3.4.5.6.7.8.9.</u> Job seeking skills;
- Job maintenance skills;
- 10. Emergency and safety skills;
- 1<u>1.</u> Knowledge of community resources:
- <u>12.</u> Interpersonal skills;
- <u>13.</u> Legal skills;
- 14. Leisure activities; and
- 15. Housing.

8-006.12B Case Plan: Within 30 days of placement in an independent/transitional living program the child-placing agency must involve the youth and the parent or quardian in the development and signing of a written case plan which includes:

- A delineation of the respective roles and responsibilities of the child-<u>1.</u> placing agency, the youth, and other involved parties:
- The goals and services to be provided or arranged by the child-placing 2. agency, including a plan for supervisory contact between the youth and the agency staff:
- The financial support needed and how it will be provided to cover the <u>3.</u> youth's basic medical, educational, shelter, nutritional, clothing, and recreational needs.
- The projected length of stay and conditions under which the youth may be 4. discharged.

8-006.12C Housing: Other than dormitory style living, no more than four youth may be placed together in a single living unit unless the living facility is located within a residential child-caring agency. The child-placing agency must ensure that youth have the necessary household utensils, bedding, bathroom supplies, and cleaning supplies needed to maintain a living arrangement. If the living arrangement for a youth is a site other than in a residential child-caring facility the living unit must also:

- 1. Meet local zoning ordinances:
- 2. Be free of firearms or other projectile weapons;

- 3. Be equipped with a smoke detector on each level of the building. Audible alarm devices must be designed and distributed so as to be effectively heard above the maximum noise level obtained under normal conditions of occupancy;
- 4. Have a water supply derived from a public water system and must be safe for household use. The volume of water must be sufficient to meet the needs of the residents. The hot water supply system must be large enough to meet the hot water needs of the residents;
- 5. Have a working heating system which is capable of heating the living arrangement to no less than 60 degrees Fahrenheit during winter months. Unvented fuel-fired room heaters may not be used unless the heater is approved by Underwriters Laboratories;
- 6. Be kept clean, neat, and free of litter and rubbish. Garbage and refuse must be kept in durable, easily cleanable containers that do not leak or absorb liquids, and be disposed of often enough to prevent the development of odor and the attraction of insects and rodents;
- 7. Have operating hand washing, bathing, and toilet facilities located in the living facility. Sewage must be disposed of by means of a public sewage disposal system or a septic system and may not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance; and
- 8. Have operating hand washing, bathing, and toilet facilities located in the living facility. Sewage must be disposed of by means of a public sewage disposal system or a septic system and may not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance; and
- 9. Have an operating B-C portable chemical fire extinguisher in the cooking area.

8-006.12D Emergency Procedure: Within one week after placement of a youth into the independent/transitional living arrangement, not located in a residential child-caring agency, the child-placing agency must instruct the youth in the proper procedures to be followed in case of an emergency. Written evidence that the youth has been instructed must be maintained in his/her file and include:

- 1. The use of emergency equipment such as fire extinguishers and smoke detectors;
- 2. Evacuation from the living facility;
- 3. Procedure for contacting police, fire, and other emergency personnel;
- 4. Fire and accident prevention; and
- 5. Proper responses to natural disasters and to tornado and fire warnings.

8-006.12E Supervision: Supervision must include:

1. Meeting with the youth in care at least every two weeks. The meeting must take place in the youth's residence or living environment at least one time per month;

- 2. <u>Document all meetings in the youth's case file which includes a statement</u> that:
 - <u>a.</u> There is no reasonable cause to believe that the youth's residence or life style presents a risk his/her health or safety;
 - b. The youth is receiving necessary medical care; and
 - <u>c.</u> The current case plan provides appropriate and sufficient services for the youth.

8-006.13 Adoption Services: The child-placing agency must have written policies and procedures in accordance with 8-006.13 through 8-006.23B for each of the services the agency intends to provide which may include any or all of the following:

- 1. Services to birth parents;
- 2. Acceptance of relinquishment from birth parents;
- 3. Recruitment, screening, training of adoptive applicants;
- 4. Home studies;
- 5. Placement of children;
- 6. Supervision of placements;
- 7. Finalization;
- 8. Post placement services; and
- 9. Foreign adoptions.

8-006.13A Services Not Provided: The child-placing agency must indicate in writing and have available for review, the services the child-placing agency does not intend to provide.

8-006.13B Conflict of Interest: The child-placing must have written policies and procedures to determine and define if a conflict of interest is present when deciding whether or not to perform a home study, place a child, or supervise the placement of a child with its own staff member, board member, for family member of a staff member or board member.

8-006.14 Services to Birth Parent(s): Any parent(s) approaching the agency with an interest in the possible relinquishment of a child for the purpose of adoption must be provided the following information in a manner and language that is easily understood by the parent(s).

- 1. Types of adoption services the agency provides;
- 2. Whether the birth or legal parent(s) is required to sign a contract or agreement with the agency;
- 3. All legal options related to pregnancy presented in an unbiased manner;
- 4. The right to receive a copy of any document signed;
- 5. Policy regarding the payment of pregnancy related expenses and that only pregnancy related expenses may be paid to a birth parent. All payments made on behalf of a birth parent must be processed through the child-placing agency;
- 6. Where to obtain:
 - <u>a.</u> A list of all licensed adoption agencies in the State of Nebraska;
 - b. Information as to how to review the official licensing file for the agency;
 - c. Information as to how to file a complaint regarding the agency with the Nebraska Department of Human Services; and

- <u>d.</u> <u>Information as to how to obtain the rules regulating child placement.</u>
- 7. The right to seek independent counsel on any issue related to the relinquishment of a child:
- 8. How parental rights are relinquished in Nebraska, including requirement that child must be at least 48 hours old pursuant to Neb. Rev. Stat. § 43-104;
- 9. The process for identifying and serving legal and/or presumed birth father(s) pursuant to Neb. Rev. Stat. § 43-104.09;
- 10.Information about whether the birth parent(s) have the right to choose the adoptive family;
- 11.Types of communication between birth parents and adoptive parents, including a statement that the adoption agency cannot enforce any voluntary agreements written or unwritten entered into between birth parent(s) and adoptive parent(s);
- 12. The Birth Parent Non-Consent Form pursuant to Neb. Rev. Stat. § 43-146.06;
- 13.Process of record storage and maintenance in the event of closure of the agency; and
- 14. The process of sharing available information regarding the child and the birth family.

8-006.15 Acceptance of Relinquishment: The child-placing agency having legal custody is responsible for the welfare of the child until a decree of adoption is granted and must:

- 1. Assume financial and planning responsibility for the child:
 - a. In the event that a child's adoptive placement is disrupted;
 - b. When a court refused to grant a decree of adoption.
- 2. Maintain a copy of the final decree of adoption from the court in the agency file.
 8-006.15A Child Available for Adoption: Information obtained for each child available for adoption must include:
 - 1. <u>Documentation regarding the reason(s) for relinquishment or termination of the parent-child legal relationship(s);</u>
 - 2. A complete and current written medical history of the child which includes;
 - a. Race;
 - b. Ethnicity;
 - c. Nationality;
 - d. Indian Tribe, when applicable;
 - e. Other cultural history of biological parent(s) when available.
 - 3. A history of the child including as much of the following information as can be obtained:
 - a. Physical appearance;
 - <u>b.</u> <u>Emotional, behavioral, and cognitive history;</u>
 - c. Religion;
 - d. Education;
 - e. Interest/hobbies/talents;
 - <u>f.</u> <u>Developmental history;</u>
 - g. Region of origin, if applicable;
 - h. Placement history; and
 - i. Any previous written assessments.

- 4. A social history of the child's birth family including birth parents, extended family and siblings as applicable, including as much of the following information as can be obtained:
 - <u>a.</u> <u>Health/medical history as required to be reported as provided in Neb. Rev. Stat. §71-626;</u>
 - b. Physical appearance;
 - c. Race or ethnic origin;
 - d. Religion;
 - e. Education;
 - f. Occupation;
 - g. Hobbies/interests/talents;
 - h. Mental health history; and
 - i. Substance use/abuse history.

8-006.15B Child's Record: All records for each child are confidential and must include:

- 1. Intake Information;
- 2. Documentation of services to birth parent(s);
- <u>3.</u> <u>Documentation of voluntary relinquishment or court termination of parental rights;</u>
- 4. Agency consent to adoption;
- 5. Adoption Decree;
- Medical and dental records for the child;
- 7. Reports of psychological tests, development tests, psychological or psychiatric examination and follow-up treatment if obtained for the child;
- 8. Placement agreement;
- 9. Copy of the service delivery plan for the child; and
- 10. Documentation of agency supervision of the child.

8-006.16 Recruitment, Training, and Screening of Applicants: The agency must not deny any person the opportunity to become an adoptive parent on the basis of race, ethnicity, or national origin of the person or of the child involved.

8-006.16A Information Provided to Applicant(s): Applicant(s) must sign a statement affirming receipt of the following information prior to signing the adoptive services contract or agreement:

- 1. A detailed description of the services the child-placing agency has been approved by the Department to provide;
- 2. The right to receive a copy of any document signed;
- 3. The philosophical perspective and/or religious affiliation of the agency;
- 4. Where to obtain:
 - a. The most current child-placing license for the agency;
 - b. A list of all licensed adoption agencies in the State of Nebraska;
 - c. Information as to how to review the official licensing file for the agency;
 - <u>d.</u> <u>Information as to how to file a complaint regarding the agency with the Nebraska Department of Human Services;</u>

- <u>e.</u> <u>Information as to how to obtain the regulations regarding child-placing agencies in the State of Nebraska.</u>
- 5. The right to seek legal counsel on any issue related to adoption;
- 6. To the greatest extent possible, average time frame for the services provided, including the adoption home study and finalization of the adoption;
- 7. Description of required training for adoptive parents;
- 8. The process of sharing available information regarding the child and the birth family in accordance with Nebraska statute;
- 9. Information regarding the notice of non-consent form signed by the biological parent, including the ability of the biological parent to revoke the notice;
- 10. Any policy that would result in the denial of services or would preclude placement of a child with an adoptive family;
- 11. The grievance/appeal process of the agency;
- 12. Post adoption services offered or required by the agency;
- 13. Process of record storage and maintenance in the event of closure of the agency;
- 14. Any service offered by the child-placing agency which is provided by another agency, entity, or individual;
- 15. The agency's policy on concurrent adoptions;
- 16. Policy regarding pregnancy related expenses and that only pregnancy related may be paid to a birth parent and all payments made on behalf of a birth parent must be processed through the agency;
- 17. If applicable, the requirement of the agency to collect fees and submit court documents after the completion of a foreign country adoption to validate such adoption in the United States court.

8-006.16A1 Disclosure of Fee Information: Prior to application the child-placing agency must provide to all applicants a written contract or agreement which includes the following:

- 1. A fee schedule that includes:
 - a. Expected itemized fees;
 - b. Expected itemized expenses;
 - c. Additional expenses; and
 - d. Post-finalization fees if included in the cost of the adoption.
- 2. An explanation of the conditions under which fees or expenses may be charged, waived, or refunded; and
- 3. An explanation of when and how the fees and expenses must be paid.

8-006.16A2 Application: The adoptive parent/applicant must submit to the child-placing agency a completed, dated and signed formal application for adoption, including a signed fee agreement and disclosure statement.

8-006.16A3 Fee Collection: The agency may only collect fees from the applicants for the actual services being rendered. All fees, scheduled payments, and anticipated completion dates of service must be in writing and provided to applicants each time fees are paid.

8-006.16A4 Return of Funds: The agency must return any funds to which the prospective adoptive parents may be entitled within 60 days of the completion of the delivery of services.

8-006.16B Concurrent Adoption: If agency policy allows for prospective adoptive parent(s) to apply for concurrent adoptions within their agency, or through both their agency and another licensed child-placing agency, the following applies:

- 1. At least one of the concurrent adoptions does not require the adoptive applicant(s) to be certified for foster care;
- 2. If two child-placing agencies are providing services to the adoptive applicant(s), the applicant(s) must sign a release of information for both child-placing agencies prior to the agencies exchanging any information:
- 3. The adoption home study completed for the initial adoption must be updated to address the reason(s) for the concurrent adoption;
- 4. All agencies involved are aware of the concurrent adoptions;
- 5. The assessment or update(s) must be completed in the correct format for the type of concurrent adoption being pursued;
 - If more than one agency is involved, that both agencies are aware of the <u>a.</u> concurrent adoptions; and,
 - That the original home study/update(s) may be shared with the second <u>b.</u> agency, with written approval from the adoptive applicants.
- 6. Updates to both home studies must be completed within one year of the original home study if no adoptive placement has occurred;
- 7. Both home studies must be submitted separately for ICPC or USCIS approval, if applicable;
- 8. If one agency places a child for adoption, either foreign or domestic, the second agency must:
 - Wait a minimum of six months before placing another child into the home; <u>a.</u>
 - <u>b.</u> Complete a home study update to assess the appropriateness of placing an additional child into the home.
- 9. The agency placing the child into the home must also complete a home study update to assess the ability of the family to adopt an additional child; and
- 10. The adoptive applicant(s) must sign a statement for each potential adoption agency agreeing to notify the other agency of when a placement of a child occurs.

8-006.16C Discontinuation of Services: The child-placing agency must notify the adoptive applicant(s) in writing within five business days of the reason(s) for the discontinuation of services or confirm the applicant's request to withdraw from services. At the time of notification, applicant(s) must be advised, in writing, of the agency's process for filing a grievance.

<u>8-006.16D Applicant(s) Record: A separate record for each adoptive home must include:</u>

- 1. The application including a fee and disclosure statement;
- 2. Marriage license of applicants, if applicable;
- 3. Three references;
- 4. One employer reference for each applicant, if applicable;
- 5. Child and adult abuse registry checks;
- 6. Nebraska sex offender registry check;
- 7. Law enforcement check completed through the Nebraska State Patrol or more local law enforcement agencies, as appropriate to the individual's residence(s). If an individual has lived in Nebraska less that 12 months the applicant must obtain documentation of a criminal history record check from the previous state(s) of residence;
- 8. Proof national criminal history (finger print) checks were conducted;
- 9. Health information report;
- 10. Home study updated annually;
- 11. Verification of completion of training;
- 12. Proof of health insurance coverage; and
- 13. Other state licenses, if applicable.

8-006.16E Training: Reasonable effort must be made to complete all required training within 90 days of the placement of children for adoption. All training must be documented in writing, including dates, number of clock hours and topics covered. All applicants must complete:

- 1. 16 core hours of training provided in face to face or web-based format;
- 2. Training prior to the finalization of the adoption;
- 3. Additional training requirements if applicable; and
- 4. Training separate from and in addition to the family assessment process.

8-006.16E1 Core Training Requirements: Core training must include:

- 1. Attachment/bonding issues;
- 2. Loss and grief issues, as applicable for all parties to the adoption;
- 3. Adoption as a lifelong issue as it pertains to all parties to the adoption;
- 4. Key concepts of child growth and development;
- 5. Boundary setting and discipline;
- 6. Parenting a child of different cultural or racial background infancy through adulthood, if applicable;
- 7. Disclosure issues including the accuracy of family history information regarding the child and birth parent(s)' family, discussion with the child and sharing information with others;
- 8. Adoption laws and procedures, including termination of parental rights:
- 9. On-going contact and/or communication of child and adoptive family with biological family and/or significant individuals, if applicable;

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- 10. Possible current and/or future use of community resources, including help with parenting techniques;
- 11. Medical and health issues including, but not limited to, shaken baby syndrome, parental substance abuse, relevant environmental issues, and genetic risk factors, if applicable;
- 12. Expectations of adoption and adoptive process; and
- 13. Supervision appropriate to the age of the child.

8-006.16E2 Core Training Not Required: If an adoptive applicant(s) is completing a subsequent adoption through the same agency or has completed documented training from their previous agency, the core training need not be repeated if documentation of the prior training is on record with the current agency.

8-006.16E3 Additional Training Required for Medically Fragile or Over Age 12 Months: For applicant(s) who will be adopting a child who is either medically fragile, or over 12 months of age four additional hours from the following topics must be completed as applicable and appropriate for the age of the child being adopted for a total of 20 hours. These four hours may be in face-to-face or webbased format:

- 1. Parenting a child that has been abused or neglected;
- 2. Parenting a physically, mentally, developmentally or emotionally delayed child; and
- 3. The impact of frequent moves and multiple caregivers on the development of a child.

8-006.16F Background Checks: A check of national criminal history, Nebraska State Patrol Sex Offender Registry, Nebraska Child Abuse/Neglect Central Registry for any history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

8-006.16G Health Information Report: Each household member of the age of majority who will provide care, including each applicant, must present health information to document that s/he is physically and mentally capable of caring for children. For purposes of the initial license, the health information must include the signature of a health practitioner. For purposes of license renewal, a self-certifying report without the signature of a health practitioner is acceptable.

If there is reason to believe that other persons in the household pose a health (physical or behavioral) related issue that could impact their ability to safely care for children, the applicant must present appropriate health information from a practitioner to allow determination that the condition does not impact the applicant's ability to safely care for children.

8-006.16H References: A minimum of three positive, written personal references from individuals, two of which must be unrelated to the applicant(s), that have knowledge of the applicants character and suitability to parent a child as well as a reference from the employer of the applicant(s).

8-006.16l Health Insurance Coverage: Verification of current health insurance coverage and that coverage for the child will be available and obtained for the child upon placement.

<u>8-006.17 Home Study: The agency must conduct face-to face interviews for not less than a total of six hours and include:</u>

- 1. Three interviews with a single applicant to be conducted on separate days; or
- 2. Three joint interviews with a couple to be conducted on separate days;
- 3. One individual interview with each member of the household including, in an age/developmentally appropriate manner, any children who reside in the home; and
- 4. One interview in the applicant's home.

<u>8-006.17A Written Home Study Requirements: The written home study document must</u> be completed on agency letterhead and must include:

- 1. Demographic Data of Applicant(s);
- 2. Home Study Author Information;
- 3. Summary of Child-Placing Agency Contacts: The contacts the agency has made with the applicant(s) and household members throughout the process of approving or licensing the home:
- 4. Summary of Training Completed: A list of all trainings completed by the applicant(s);
- <u>5.</u> A national criminal history record information check;
- 6. A Nebraska sex offender registry check;
- 7. A check of the central register created in Neb. Rev. Stat. §28-718;
- 8. Family Background;
- 9. Current Family Composition;
- 10. Self-Awareness including coping strategies and anger management;
- 11. Physical and Behavioral Health;
- 12. Parenting style and methods:
- 13. Motivation to Adopt Child(ren) including any infertility issues and how those have been resolved;
- 14. Ability to Meet the Child's Social, Emotional, Educational and Physical Healthcare Needs:
- 15. Applicants understanding of permanency through adoption;
- 16. Support Systems both formal and informal:
- 17. Employment, Education and Military;
- 18. Current Living Arrangements/Description of Home;
- 19. Transportation means and methods;

- 20. Finances: Assessment of the applicant's financial stability and ability to provide for an additional child in the home;
- 21. References: The information reported in the references must be taken into consideration when conducting the evaluation and making the recommendation;
- 22. Medical Report: Each applicant must submit a signed Health Information Report (HIR);
- 23. Evaluation: The home study evaluator must provide his/her analysis of all the information gathered to draw conclusions that identify the family's strengths, needs and recommendations;
- 24. Recommendation: A recommendation of approval or disapproval must be provided, along with a supporting summative statement for the recommendation. Indicate characteristics and needs of children the applicant(s) are willing to accept;
- 25. Signatures: The home study must be signed by the author and a child-placing agency supervisor or administrator.

8-006.17B Applicant(s) Review: At the conclusion of the home study process the applicant must be offered the opportunity to review the home study and submit corrections to the agency of any inaccuracies contained in the home study. The applicants must either:

- Sign a statement that they have been given the opportunity to read and review the final draft of the home study, excluding the confidential references, or
- 2. Sign the home study section indicating they have read and reviewed the final draft of the home study.

8-006.17C Release: The adoptive home study may be released upon the written authorization by the applicant(s) and legal custodian of a child(ren) if named in the home study. Names of child(ren), other than the applicants own children, must be redacted:

- 1. To another licensed adoption agency, the Department, or any corporation, partnership, association, firm, agency, institution, or person approved to operate in another state; or,
- 2. To the adoptive applicant when required by a foreign country to complete a foreign country adoption; and
- 3. Shall be transmitted within 30 calendar days of the written request or of when the original child-placing agency receives full payment of all fees for services rendered by the agency.

<u>8-006.17D Annual Update: On child-placing agency letterhead, the home study must</u> be updated annually to include:

- 1. At least one face-to-face visit to the home of the applicant(s);
- 2. A review of the current health information;
- 3. Questions regarding any child abuse investigations during the previous vear:
- 4. Any changes in residence, marital status, criminal history, finances, or addition or deletion of family members; and
- 5. Background checks as described in 8-006.16F.

8-006.17E Addendum: An addendum to the previously completed adoption home study must be completed when any of the following significant changes occur:

- 1. Criminal history charges or convictions;
- 2. Child abuse investigations;
- 3. Marital status;
- 4. Changes in family structure;
- 5. Employment/financial resources;
- 6. Health changes/status;
- 7. Place of residence; and,
- 8. Other significant changes within the family

8-006.18 Placement of a Child:

8-006.18A Written Agreement: A written agreement between the placement agency and the adoptive parent(s)/applicant(s) must be signed, dated, and executed at the time of placement. The agreement must include that until the adoption becomes final the adoptive applicant(s) will:

- 1. Participate in supervision by the child-placing agency of the child in the adoptive home;
- 2. Agree to allow the placement agency to complete post placement visit(s) as determined by the child-placing agency and submit a report to the court regarding the findings of the post-placement visit(s);
- 3. Obtain permission of the placement agency or birth parent, as appropriate, prior to removing the child from the state;
- 4. Agree that the child may be removed from the adoptive placement at the discretion of either the agency or the adoptive parent(s) with good cause; and
- 5. File an adoption petition pursuant to Nebraska Statutes.

8-006.18B Waiver of Liability: If the agency requires the prospective adoptive parent(s)/applicant(s) to sign a waiver of liability, the waiver must be limited and specific, based on the risks that have been discussed with and explained in writing to the client in the adoption services contract or other written agreement for adoption services.

8-006.18C Information Disclosed: Prior to placement as much information as possible regarding the child must be obtained and disclosed, in writing, to the prospective adoptive parent(s).

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8-006.18D Discontinuation of the Adoption Plan: The agency must immediately inform the adoptive applicant(s) of the biological parent's decision to discontinue the adoption plan and the plan for returning the child to the birth or legal parent.

8-006.18E Sibling Placement: An effort must be made to place siblings with the same adoptive parent(s)/applicant(s) unless there is a preponderance of evidence that placement of siblings together is not in the best interest of a child. The written record must contain the reasons and supporting evidence for such separate placements.

8-006.18F Termination of a Placement: The child placing agency must have detailed policies and procedures regarding termination of adoptive placements at the request of the adoptive parent(s)/applicant(s) or pursuant to Nebraska Statute if the placement is not in the best interests of the child.

<u>8-006.19 Supervision of a Placement: The child-placing agency must have detailed written policies and procedures for the supervision of each child after placement in an adoptive home.</u>

<u>8-006.20 Finalization of an Adoption: The child-placing agency that has custody of the child</u> must provide written consent and all required documents to the court.

8-006.20A Verification: Written verification of finalization of the adoption must be placed in the adoptive applicant's file at the child-placing agency, except when the adoption is finalized in a foreign country.

8-006.21 Post Adoption Services: Detailed written policies and procedures must include:

- 1. Consultation;
- 2. On-going support and education;
- 3. Resources for counseling or medical needs;
- 4. Search or reunification resources;
- Networking with other adoptive families;
- 6. Adoption education and support groups; and
- 7. <u>Additional social and/or medical background information obtained after</u> placement that could significantly impact the child.

8-006.21A Services Not Provided: If the child-placing agency does not provide post adoption services, the child-placing agency must provide resource and referral information regarding post adoption services to the birth parent(s), adoptive parent(s), and child, if appropriate.

<u>8-006.21B Adoption Dissolution: The child-placing agency must have detailed policies and procedures regarding the response of the agency to disruptions of adoptive placements when known to the agency.</u>

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8-006.22 Confidentiality and Disposition of Adoption Records: The record for each child placed by the agency must be retained permanently. At the time of the closure of the license of a child placing agency approved for adoption services, the agency will make arrangements with a licensed child placing agency in Nebraska to allow access to all closed adoption files for the purpose of adoption searches and post adoption services. Both agencies must inform the Department's licensing unit in writing of the agreement.

8-006.23 Specific Additional Requirements for Foreign Adoptions: The child-placing agency must have detailed written policies and procedures for working with each country in which the agency intends to engage in foreign adoption in accordance with the requirements of the United States Custom and Immigration Services (USCIS) and the United States Department of State.

8-006.23A Fees: For foreign country adoptions, the child-placing agency must provide to the adoptive parent(s)/applicant(s), in writing, a detailed listing of the following expenses:

- 1. Home study fee;
- 2. Adoption expenses in the United States;
- 3. The foreign country program expenses;
- 4. The care for the child in the foreign country expenses;
- 5. Translation and document expenses:
- <u>6.</u> Contributions to humanitarian or other welfare services programs in the foreign country;
- 7. Post-placement and post-adoption expenses;
- 8. A written explanation of when the fees may be charged, waived, reduced, or refunded; and
- 9. To whom the fees are paid.

8-006.23B Additional Expenses: The child-placing agency may not customarily charge any additional fees and expenses beyond those disclosed in the adoption services contract and must have a written policy to this effect. In the event that unforeseen additional fees and expenses are incurred in the foreign country, the child-placing agency may charge such additional fees and expenses only when it notifies the prospective parents of such. The child-placing agency must obtain specific written consent from the prospective parents prior to expending funds in excess of \$1000 for which the agency will hold the adoptive parents responsible. The agency must provide written receipts to the prospective parents for fees and expenses paid directly by the agency, on behalf of the prospective parents, in the foreign country.

8-007 PHYSICAL PLANT STANDARDS:

The child-placing agency must be kept neat, clean, and hazard free. There must be ample space for files and to meet privately with applicants, parents, and children.

8-008 DENIAL, REFUSAL TO RENEW, OR DISCIPLINARY ACTION:

<u>8-008.01 Grounds for Denial or Disciplinary Action: The Department may deny the issuance</u> of or take disciplinary action against a license on any of the following grounds:

- 1. Failure to meet or violation of any of the requirements of the Children's Residential Facilities and Placing Licensure Act or the rules and regulations adopted and promulgated under the Act;
- 2. Violation of an order of the Department under the Act;
- 3. Conviction of, or substantial evidence of committing or permitting, aiding or abetting another to commit, any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the Act, household members who reside at the place where the program is provided, or employees of the applicant or licensee that involve:
 - a. Physical abuse of children or vulnerable adults as defined in Neb. Rev. Stat. § 28-371;
 - b. Endangerment or neglect of children or vulnerable adults;
 - c. Sexual abuse, sexual assault, or sexual misconduct;
 - d. Homicide;
 - e. Use, possession, manufacturing or distribution of a controlled substance listed in Neb. Rev. Stat. § 28-405;
 - f. Property crimes, including, but not limited to, fraud, embezzlement, and theft by deception; and
 - g. Use of a weapon in the commission of an unlawful act;
- 4. Conduct or practices detrimental to the health or safety of an individual served by or employed at the program;
- 5. Failure to allow an agent or employee of the Department access to the program for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department;
- 6. Failure to allow state or local inspectors, investigators, or law enforcement offices access to the program for the purposes of investigation necessary to carry out their duties;
- 7. Failure to meet requirements relating to sanitation, fire safety and building codes;
- 8. Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711;
- 9. <u>Violation of any city, village, or county rules, regulations, or ordinances regulating licensees; or</u>
- 10. Failure to pay fees.

<u>8-008.02 Types of Disciplinary Action: The Department may impose any one or a combination of the following types of disciplinary action against the license of a child-placing agency:</u>

- 1. A fine not to exceed ten thousand dollars per violation.
- 2. A period of probation not to exceed two years during which the child-placing agency may continue to operate under terms and conditions fixed by the order of probation;
- 3. Restrictions on acceptance of new referrals by a child-placing agency;

- 4. Restriction or other limitation on the number, gender, or age of children served by the child-placing agency;
- 5. Other restrictions or limitations on the type of service provided by the child-placing agency:
- <u>6.</u> Suspension of the license for a period not to exceed three years, during which time the licensee shall not operate a child-placing agency;
- 7. Revocation of the license. A former licensee whose license has been revoked shall not apply for a license for a minimum of two years after the date of revocation.

<u>8-008.02A Considerations: In determining the type of disciplinary action to impose, the Department will consider:</u>

- 1. The gravity of the violation, including the probability that death or serious physical or mental harm will result, the severity of the actual or potential harm, and the extent to which the provisions of applicable statutes, rules, and regulations were violated:
- 2. The diligence exercised by the program in identifying or correcting the violation;
- 3. The degree of cooperation exhibited by the licensee in the identification, disclosure, and correction of the violation;
- 4. Any previous violations committed by the program; and
- 5. The financial benefit to the program of committing or continuing the violation.

8-008.02B Additional Action: If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action.

8-008.03 Unpaid Fines: Any fine imposed and unpaid will constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska is the district court of the county in which the program is located. The Department will, within 30 days after receipt, remit fines to the State Treasurer for credit to the permanent school fund.

8-008.04 Department's Emergency Power: Whenever the Department finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in the program, the Department may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. The order may include an immediate prohibition on the care of children by the licensee other than children of the licensee. An order under this subsection will be effective immediately. Any person to whom the order is directed must comply immediately, and upon application to the Department, the person will be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing, the Department will continue to enforce the order or rescind or modify it.

<u>8-008.05 Voluntary Closure: A licensee may voluntarily surrender a license issued under the Children's Residential Facilities and Placing Licensure Act at any time.</u>

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8-008.05A Exception to Voluntary Closure: The Department may refuse to accept a voluntary surrender of a license if:

- 1. The licensee is under investigation; or
- 2. The Department has initiated disciplinary action against the licensee.

8-008.06 Re-Application After Revocation: A former licensee whose child-placing agency license has been revoked for any cause other than nonpayment of fees is not eligible to reapply for a license for two years. The former licensee must:

- Apply for a provisional license;
 Meet the requirements for provisional licensure; and
- 3. Demonstrate to the Department's satisfaction the ability and willingness to comply with all licensing regulations.